

## LABOUR AND EMPLOYMENT DEPARTMENT

The 22nd May, 1975

No. 3630-7Lab-75/15891.—The Governor of Haryana is pleased to make the following appointment and posting :—

Serial No.	Name of Officer	Appointed and posted as	With effect from	Remarks
1.	Shri Suraj Bhan	Assistant Employment Officer. District Employment Exchange Gurgaon	25th March, 1975 (forenoon)	
2.	Shri Shiv Basant	Assistant Employment Officer, Divisional Employment Exchange, Hissar	21st March, 1975 (forenoon)	
3.	Shri Lok Nath Gambhur	Assistant Employment Officer Employment Unit Directorate of Employment, Haryana, Chandigarh	20th March, 1975 (afternoon)	

The 19th May, 1975.

No. 4073-4L-75/15324-A.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947, (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the Management of M/S Hemla Embroidery Mills (P) Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK.

Reference No. 22 of 1972.

*Between*

SHRI SHAM LAL AND THE MANAGEMENT OF M/S HEMLA EMBROIDERY MILLS, (P.) LTD., FARIDABAD

Present:

Shri Darshna Singh, for the workman.

Shri R. C. Sharma, for the Management.

## AWARD

Shri Sham Lal was in the service of M/S Hemla Embroidery Mills (P) Ltd., Faridabad as a Machine-man. His services were allegedly terminated by the management on 23rd August, 1971 without any justification. Feeling aggrieved, he demanded reinstatement with full back wages. His demand having not been accepted by the management, the matter was taken up for conciliation which, however, ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10

of the Industrial Disputes Act, 1947 referred the dispute for adjudication to this Court vide order No. ID/FD-189-D/71/237, dated 5th January, 1972, with the following term of reference.

“Whether the termination of services of Shri Sham Lal was justified and in order ? If not, to what relief is he entitled ?”

Usual notices were given to the parties. The workman concerned did not file any statement of claim. The management on the other hand, pleaded that it was a case of self abandonment of service by the workman concerned who had voluntarily submitted his resignation which had been duly accepted by the management. The workman did not file any replication to the above plea of the management. My learned predecessor framed the following issues in the case.

1. Whether the workman submitted his resignation which was accepted by the management on 23rd July, 1971 ?
2. If issue No. 1 is found in favour of the workman whether the termination of services of Shri Sham Lal was justified and in order ? If not, to what relief is he entitled ?

Shri Joginder Singh Uppal Managing Director of the Establishment has come into the witness-box and sworn testimony to the above plea of resignation of the workman. He has proved the resignation Exhibit M. 1, intimation of the acceptance of the resignation Exhibit M. 2 and registered cover Exhibit M. 3. The workman has made his own statement controverting the above allegations of the management. According to him, he had never submitted the resignation not does it bear his signatures. Another witness Shri Khazan Chand Secretary of the Union W. W. 2 has deposed that Shri Sham Lal had filed an application under section 33-C(2) of the Industrial Disputes Act, 1947 through the union for computation of minimum wages which had displeased the management and for that reason his services had been illegally terminated. He has further stated that he had approached the Managing Director Shri Joginder Singh Uppal to take this workman on duty but the latter had insisted that the application under section 33-C(2) should first be withdrawn.

The case has been argued at length and I have given a very careful thought to the material on record and the contentions raised on both sides. The learned representative of the workman has laid much emphasis on the fact that the so called resignation was not submitted by the workman to the Managing Director Shri Joginder Singh Uppal and according to his own showing it was received through the Factory Manager Shri Lal Chand Joshi who has not been examined as a witness in the case. He has further argued that the workman who had put in service for a number of years could not be expected to submit his resignation keeping in view the problem of acute un-employment everywhere.

I am afraid, the contentions raised on behalf of the workman concerned are without much force and the facts on record do not warrant the same. In the first instance, no plea has been raised in the demand notice that the resignation of the workman was obtained by the management by fraud, misrepresentation or coercion. No statement of claim was filed in the case to raise the above pleas, so much so, that no rejoinder even was put into contradict the above plea of the management specifically raised in the written statement. In the absence of these pleas in the statement of claim or by way of following a rejoinder, the valid statement of the workman that he did not submit the resignation does not carry weight and can not safely be believed.

As for the argument that the resignation was not submitted to Shri Joginder Singh Uppal the Managing Director of the Establishment the solitary witness as examined



in the case and it was received by him through the Factory Managr. The statement of Shir Uppal is itself quite clear on the point. He has no doubt admitted that the resignation was received by him through the Factory Manager Shri Lal Chand Joshi. But there was nothing wrong about it. The workman could very well submit the resignation to the Factory Managr. Shri Uppal Managing Director was further stated that he had called the workman for his satisfaction and enquired from him as to why he was leaving service to which the reply given by the workman was that his wages were low and, therefore, he did not want to work in this factory and wanted his account to be cleared. This fact has been mentioned in the resignation Exhibit M. 1 also wherein it has been stated that he was resigning because he had got better job somewhere else. according to Shri Uppal, the account of the workman was checked and he was asked to collect his dues but he had refused to do the same as he was insisting on the payment of the gratuity amount to which he was not entitled as there was no gratuity scheme in force in the Establishment at that time. He has further stated that the management is prepared to pay to the workman all his dues including the amount of gratuity, if any due, and even to re-employ him as he is in need of workers in the factory but Shri Sham Lal is not willing to accept this offer. The statement of Shri Uppal Managing Director of the Establishment read as a whole does not give rise to any inference that the management had any malafide intention in terminating the services of the present workman against this wishes by forging his letter of resignation or by obtaining the same by coercion, fraud or misrepresentation. The willingness of the management to pay his entire dues including the amount of gratuity although no gratuity scheme was in force in this Establishment on 23rd March, 1971, when the services of the workman came to an end as a result of his resignation, coupled with the fact that the management is still willing to re-employ him rather goes a long way to prove the bonafides of the management. If the management had felt annoyed on account of the application under section 33-C(2) action must have been taken against all the six or seven workmen who had moved the application.

So, on the facts established and for the reasons aforesaid, I am satisfied that Shri Sham Lal workman concerned had voluntarily submitted his resignation which was duly accepted by the management and as such the question of the termination of his services by the management or its justification did not arise. Both the issues are decided in favour of the management and against the workman and it is held that he is not entitled to the relief of reinstatement. He would, however, be at liberty to collect his legal dues, if any and the management would be advised to re-employ him as stated by Shri Uppal Managing Director, of course, taking into consideration the present requirements in the factory. The award is made accordingly but without any order as to costs.

Dated the 16th April, 1975.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 88.

Dated the 21st April, 1975.

Forwarded (four copies to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.